

Submitted April 12, 2014
Approved as of
Date April 12, 2014

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 03-2014
Saturday, March 8, 2014**

The City of Rockville Board of Appeals convened in regular session in the Mayor and Council Chambers at 9:00 a.m., Saturday March 8, 2014.

PRESENT

W. Thomas Curtis, Chair
Peter Mork
Steven Wilcox
Jeryl O. Gegan, Alternate

Staff Present: Cindy Walters, Senior Assistant City Attorney
Jim Wasilak, Chief of Planning
Bobby Ray, Principal Planner
Nicole Walters, Planner II

The Board convened in regular session at 9:00 a.m. Dr. Mork moved, seconded by Mr. Gegan, to recess the meeting and go into an Executive Session, pursuant to Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland, to consult with counsel to obtain legal advice regarding reconsideration requests. The motion passed 3-0, with Chair Curtis, Dr. Mork and Mr. Gegan voting in favor and Dr. Wilcox absent for the vote. The meeting recessed at 9:01 a.m.

I. EXECUTIVE SESSION

The Board of Appeals met in Executive Session, pursuant to Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding reconsideration requests.

Dr. Wilcox arrived at the beginning of the Executive Session.

The Board received legal advice regarding the reconsideration request and the legal standards for granting. No decisions were made during the Executive Session.

The meeting reconvened at 9:44 a.m.

II. ADOPTION OF DECISION FOR RECONSIDERATION REQUEST

Request for Reconsideration of Special Exception SPX2013-00387, 731 W. Montgomery Avenue - a request by the West End Citizens Association (WECA) that the Board of Appeals reconsider the decision to approve the subject special exception request, which was filed to increase the number of children being cared for from 8 children to 12 children, in the R-60 zone. The Board

heard the Special Exception request on July 13, 2013 and adopted a decision for denial on September 14, 2013. The applicant then submitted a request for reconsideration on September 26, 2013, which was granted by the Board on November 9, 2013. At its January 11, 2014, meeting, the Board conducted a hearing on the applicant's reconsideration request and reversed the original decision of denial. This decision was formally adopted on February 8, 2014.

Dr. Mork moved, seconded by Dr. Wilcox, to deny the request for reconsideration based on the following factors:

1. The Board's grant of the special exception, correctly applied Maryland law;
2. The Board found evidence related to the parking arrangements presented by the applicant to constitute new evidence; and
3. The conditions of the special exception are enforceable, in that Show-Cause Hearings are the appropriate enforcement mechanism.

The motion was approved by a vote of 3-0, with Mr. Gegan as the alternate non-voting member for the vote.

III. COMMISSION ITEMS

A. OLD BUSINESS - Dr. Mork moved, seconded by Dr. Wilcox, to adopt the ex parte communication and site visit guidelines as guidance for the Board of Appeals members. The motion passed 3-0.

B. NEW BUSINESS

C. MINUTES – Dr. Mork moved, seconded by Dr. Wilcox, to approve the minutes for Meeting 02-2014 on February 8, 2014. The motion passed 3-0.

IV. ADJOURNMENT

There being no further business to come before the Board, the Chair adjourned the meeting at 9:52 a.m.

Respectfully Submitted

Sandra Y. Driver, Commission Secretary